

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Health, Medical & Family Welfare Department - Drugs and Cosmetics Act 1940 – Cancellation of drug licence of M/s Meghana Medical & General Stores, Khammam by the licensing Authority as per the provision of Drugs and Cosmetics Act, 1940 --- cancel day of during licence – Appeal filed – Appeal examined – Rejection - Order - Issued.

HEALTH, MEDICAL & FAMILY WELFARE (L.2) DEPARTMENT

G.O.Rt.No.300

Dated: 22-02-2012
Read the following:-

1. Appeal filed by Sri.N.Siva Prasad, dated 05-05-2010.
2. Orders received from Hon'ble A.P.High Court in W.P.No.6559 of 2010, dated 18-08-2010.
- 3.Telegraphic messages to Sri.N.Siva Prasad and Sri Rekhala Bhaskar, dated 09-01-2012.

ORDER:-

In the letter 1st read above wherein Sri.N.Shiva Prasad has made an appeal before the Government under 66(2) of the Drugs Control Cosmetics Rules, 1945 R/W Drugs and Cosmetics Act, 1940 against the cancellation of Medical Shop licence issued by the Assistant Director, Drugs Control Administration, Khammam vide proceedings no.477/BV/D1/KMM, dated 17-03-2010 with a request to set-aside the cancellation orders passed by the licensing authority i.e. Assistant Director, Drugs Control Administration, Khammam proceedings dated 17.03.2010. The main grounds in the appeal are as follows:-

- “(1) That, the order passed by the Respondent/Licensing authority cancelling the appellants license is illegal, arbitrary and against the facts on record besides inconsistent with the provisions of law.
- (2) That, the learned licensing authority had failed in appreciating the facts on records and further failed in coming to conclusion.
- (3) That, the licensing authority had failed to evaluate the evidence on records and further failed to evaluate the evidence led by the Appellant/Respondent and wrongly arrived at conclusion and had passed order cancelling the license of the Appellant/ Respondent.
- (4) That, the licensing authority has not taken in to consideration”
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“under rule 65(a) i.e. additional information furnished by the applicant for license or a license to the licensing authority. In the present case the applicants mother is the title holder of the property the land title stands in her name and the applicant obtained the lease deed from his mother on 19-06-2009.”

2. The applicant has also stated that at the time of construction of the said premises the permission was obtained by appellant's mother along with her brothers namely Sri Rekala Vijaya Kumar, Sri Rekala Bhaskar & Sri Rekala Prabhakar, by the Municipal Commissioner, Khammam. Later the mutation of the name of Sri R.Bhaskar in Municipal records was challenged by Smt.N.Saraswathamma. After enquiry the Municipal Commissioner, Khammam mutated the premises in the name of Smt N.Saraswathamma. Since the applicant has stated that the premises stands in the name of Smt.N.Saraswathamma. Accordingly, the appellant submitted lease document to the licensing authority at the time of filing his application for the issue of license of license as required under Rule.65-A of the drugs and cosmetics rules, 1945.”

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3. The appellant prayed that the cancellation order passed by Assistant Director, Drugs Control Administration, Khammam may be set aside.

4. During the hearing the Advocate of Sri Rekala Bhaskar has stated that the license holder (Appellant) who obtained the license from the drugs authorities basing on the lease deed executed by Smt.N.Saraswathamma it self is not having any right or title to possession of the property. The municipal documents and Ownership certificates shows that the property is under the control of Sri Rekala Bhaskar as such Smt.N.Saraswathamma not having any title or possession of the property as on the date of execution of the lease agreement. Apart from that the son-in-law of the Smt.Saraswathamma who is running a Nursing home under the name of "Shashi Bala Super Speciality Hospital" as made a statement before the Income Tax Authorities that he is paying the rent to Sri. Rekala Bhasker and also stated that certain civil dispute /Arbitration Cases are pending against the ownership of the premises.

5. The appeal was heard by the Special Chief Secretary to Government, Health, Medical & Family Welfare Department and after hearing the arguments made by the applicant and respondent, it is noticed that the Assistant Director, Drugs Control Administration, Khammam has cancelled the licence due to filing the forged document by the applicant i.e. pertaining to house tax receipt from the Municipal Authority, Khammam. It is also noticed by the licensing authority that there are civil disputes among the owners of the building in which the licensed premises is located.

6. The Assistant Director & District Licensing Authority Drug Control Administration, Khammam District has therefore cancelled the Drug license bearing No.873/AP/2009/G/R in forms 20,21 which was issued to the applicants under Rule 59(1) & 66 of Drugs and Cosmetics Rules 1945 for violation of section 18 (a)(vi) read with Rule 65-A of Drugs and Cosmetics Act, 1940 of Drugs and Cosmetics Rules, 1945.

7. There are no grounds to interfere with the orders of the Assistant Director, Drugs Control Administration, Khammam, in the light of the dispute among the owners of the premises. Hence, the appeal is hereby dismissed.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

**G.SUDHIR
SPECIAL CHIEF SECRETARY TO GOVERNMENT**

To
The Director General, Drugs & Copyrights,
Drugs Control Administration, Hyderabad.
The Assistant Director, Drugs Control Administration,
D.No.10-3-237,
Mamillagudem Khammam,
The N.Siva Prasad, M/s Meghana
Medical & General Stores,
H.No.11-5-12/7, Khammam.
The Rekahla Bhaskar,H.No.11-3-34,
Nehru Nagar, Khammam.

//FORWARDED :: BY ORDER//

SECTION OFFICER